

May 14, 2013

The Honorable Ben Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave., NW
Washington, D.C. 20551

The Honorable Eric Holder
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530

The Honorable Mary Jo White
Chairman
U.S. Securities & Exchange Commission
100 F St., NE
Washington, D.C. 20549

Dear Chairman Bernanke, Attorney General Holder, and Chairman White:

Following the February 14, 2013 hearing before the Senate Committee on Banking, Housing, and Urban Affairs entitled "Wall Street Reform: Oversight of Financial Stability and Consumer and Investor Protections," I submitted the following question for the record to Comptroller Thomas J. Curry: "Has the OCC conducted any internal research or analysis on trade-offs to the public between settling an enforcement action without admission of guilt and going forward with litigation as necessary to obtain such admission? If so, can you provide that analysis to the Committee?"

Last week, the OCC provided me with the following answer: "The OCC does not have any internal research or analysis on the trade-offs of settling without an admission of liability."

There is no question that settlements, fines, consent orders, and cease and desist orders are important enforcement tools, and that trials are expensive, demand numerous resources, and are often less preferable than settlements. But I believe strongly that if a regulator reveals itself to be unwilling to take large financial institutions all the way to trial -- either because it is too timid or because it lacks resources -- the regulator has a lot less leverage in settlement negotiations and will be forced to settle on terms that are much more favorable to the wrongdoer. The consequence can be insufficient compensation to those who are harmed by illegal activity and inadequate deterrence of future violations. If large financial institutions can

break the law and accumulate millions in profits and, if they get caught, settle by paying out of those profits, they do not have much incentive to follow the law.

I am writing to follow up on my inquiry with the OCC and to ask the same question of your institution. Have you conducted any internal research or analysis on trade-offs to the public between settling an enforcement action without admission of guilt and going forward with litigation as necessary to obtain such admission and, if so, can you provide that analysis to my office?

I am interested in learning more about how your institution has evaluated the cost to the public of settling cases without requiring an admission of guilt rather than pursuing more aggressive actions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Elizabeth Warren", with a long horizontal stroke extending to the right and a vertical line extending downwards from the end.

Senator Elizabeth Warren